65-6745.   Civil action for violation of act. (a) A cause of action for civil damages against a person who has performed a dismemberment abortion in violation of K.S.A. 2016 Supp. 65-6743, and amendments thereto, may be maintained by the following persons, unless, in a case where the plaintiff is not the woman upon whom the abortion was performed, the pregnancy resulted from the plaintiff's criminal conduct:

(1)   A woman upon whom a dismemberment abortion has been performed in violation of K.S.A. 2016 Supp. 65-6743, and amendments thereto;

(2)   the father of the unborn child, if married to the woman at the time the dismemberment abortion was performed; or

(3)   the parents or custodial guardians of the woman, if the woman has not attained the age of 18 years at the time of the abortion or has died as a result of the abortion.

(b)   Damages awarded in such an action shall include:

(1)   Money damages for all injuries, psychological and physical, occasioned by the dismemberment abortion;

(2)   statutory damages equal to three times the cost of the dismemberment abortion;

(3)   injunctive relief; and

(4)   reasonable attorney fees awarded in accordance with subsection (d).

(d) (1)   If judgment is rendered in favor of the plaintiff in an action brought under K.S.A. 2016 Supp. 65-6744, and amendments thereto, or this section, the court shall award reasonable attorney fees to the plaintiff in addition to any other relief that is awarded.

(2)   If judgment is rendered in favor of the defendant in an action brought under K.S.A. 2016 Supp. 65-6744, and amendments thereto, or this section, and the court finds that the plaintiff's action was frivolous and brought in bad faith, the court shall award reasonable attorney fees to the defendant in addition to any other relief that is awarded.

(3)   No attorney fees shall be assessed against the woman upon whom a dismemberment abortion was performed or attempted to be performed except in accordance with paragraph (2).

History: L. 2015, ch. 22, § 5; July 1.